

PLANNING COMMISSION MINUTES

June 18, 2003

CALL TO ORDER:

Chairman Bob Barnard called the meeting to order at 7:00 p.m. in the Beaverton City Hall Council Chambers at 4755 SW Griffith Drive.

ROLL CALL:

Present were Chairman Bob Barnard, Planning Commissioners Dan Maks, Shannon Pogue, Vlad Voytilla, and Scott Winter. Planning Commissioners Gary Bliss and Eric Johansen were excused.

Planning Services Manager Hal Bergsma, Senior Planner Kevin Snyder, Senior Planner John Osterberg, Associate Planner Suzanne Carey, Assistant City Attorney Ted Naemura and Recording Secretary Sandra Pearson represented staff.

The meeting was called to order by Chairman Barnard, who presented the format for the meeting.

VISITORS:

Chairman Barnard asked if there were any visitors in the audience wishing to address the Commission on any non-agenda issue or item. There were none.

STAFF COMMUNICATION:

Staff indicated that there were no communications at this time.

NEW BUSINESS:

Chairman Barnard opened the Public Hearing and read the format for Public Hearings. There were no disqualifications of the Planning Commission members. No one in the audience challenged the right of any Commissioner to hear any of the agenda items, to participate in the hearing or requested that the hearing be postponed to a later date. He asked if there were any ex parte contact, conflict of interest or disqualifications in any of the hearings on the agenda. There was no response.

1 **PUBLIC HEARINGS:**

2
3 **A. CU 2003-0009/DR 2003-0046/TP 2003-0008 – JESUIT HIGH**
4 **SCHOOL BUILDING ADDITIONS**

5 Jesuit High School proposes removal and replacement of the
6 existing Suavie Hall building, which contains offices and
7 residences, at the same location, with a new building containing
8 offices to be known as the Business Center. A new two-story
9 residence building is proposed adjacent to the Business Center
10 and a new addition is proposed to the existing Chapel, planned
11 for use as a worship area. Overall, the building additions,
12 planned over two phases of development, comprise
13 approximately 9, 600 square feet of additional building area.
14 The applicant also proposes removal of trees, identified as
15 Landscape Trees, for removal and for relocation on the site in
16 close proximity to the proposed building area. In addition,
17 revisions are proposed to landscape areas, internal vehicle and
18 pedestrian circulation areas. The site is zoned Office
19 Commercial (OC) and is approximately 32 acres in size.
20

21 Commissioner Maks disclosed that although he is alumni and has
22 made donations to Jesuit High School, this would not affect his ability
23 to make a fair and impartial decision with regard to this proposal.
24

25 Commissioners Voytilla, Winter, Maks, and Pogue, and Chairman
26 Barnard indicated that they had visited and were familiar with the
27 site and had no contact with any individual(s) with regard to these
28 applications.
29

30 Senior Planner John Osterberg submitted the Staff Reports and briefly
31 described the three separate applications associated with this proposal.
32 He distributed copies of the Arborist's Report with regard to the Tree
33 Plan and the materials and finishes board that had been submitted by
34 the applicant. Concluding, he recommended approval of all three
35 applications, including recommended Conditions of Approval, and
36 offered to respond to questions.
37

38 Commissioner Voytilla questioned whether the sign on the tower
39 structure would be reviewed under a separate permitting process.
40

41 Mr. Osterberg advised Commissioner Voytilla that signs are always
42 addressed through a separate permitting process, emphasizing that
43 any sign visible from the public right-of-way would be subject to the
44 sign permit standards within the Development Code.

1 On question, Mr. Osterberg informed Commissioner Maks that the
2 tower is 30 feet in height in compliance with the maximum height
3 specified within the OC zoning district of 30 feet and that the height of
4 the peak of the Performing Arts Center may be 56-58 feet in height,
5 but that he would verify that height and report back to the
6 Commission later in the hearing.

7
8 Commissioner Pogue requested clarification with regard to the conflict-
9 ing references indicating the removal of seven trees and eight trees.

10
11 Mr. Osterberg clarified that although eight trees had been listed for
12 removal in the earlier draft, the applicant is proposing the removal of
13 only seven trees, and submitted a narrative and illustration providing
14 this information.

15

16 **APPLICANT:**

17

18 **JOYCE JACKSON**, representing *Mitchell Nelson Group, LLC*, on
19 behalf of the applicant, introduced Jim Smith, representing *Ankrom*
20 *Moison Associated Architects, Inc.*, the Landscape Architect John
21 Nelson, representing *Robert Mazany and Associates*, and Richard
22 Gedrose, President of Jesuit High School. She explained the purposes
23 and functions of the various applications associated this proposal, and
24 responded to earlier questions concerning the proposed Tree Plan.
25 Observing that the applicant is requesting the removal of four, rather
26 than seven trees, she pointed out that the arborist had identified three
27 six-inch Oak trees located within the footprint of the upper building
28 that is the residential structure that could be transplanted between
29 the parking area and SW Beaverton/Hillsdale Highway, adding that
30 these trees could be replaced with new trees as proposed on the
31 Landscape Plan.

32

33 **JIM SMITH**, representing *Ankrom Moison Associated Architects, Inc.*,
34 described the demolition of the majority of the existing Sauvie Hall
35 building and replacement with a new business center and priest
36 residence. Observing that those two functions are not particularly
37 compatible with one another, he pointed out that this has resulted in a
38 proposal involving two new structures, involving the replacement of
39 the business center and a private residence for the priests.
40 Concluding, he offered to respond to questions.

41

42 On question, Mr. Smith advised Commissioner Winter that the
43 perspective of the drawing is from the existing parking lot, facing

1 towards the southwest, adding that the applicant intends to develop
2 the tower proposal in greater detail at some future point.

3
4 Commissioner Maks requested clarification with regard to the tower.

5
6 Mr. Smith explained that the tower would serve as a landmark and
7 creates a focal point, sense of community, and an on-campus gathering
8 place for the students.

9
10 Referring to pages 8 and 9 of the Design Review Staff Report,
11 Commissioner Maks requested information with regard to the existing
12 drop-off system and circulation pattern.

13
14 Emphasizing that the drop-off system occurs throughout the campus,
15 Mr. Smith pointed out that this system basically utilizes available
16 parking or involves briefly stopping in the driving lane to allow
17 students to exit and enter vehicles.

18
19 Commissioner Maks questioned when the diseased trees had been
20 planted.

21
22 Ms. Jackson stated that while she believes that the diseased trees had
23 been planted in 1967 and arborist has adamantly stated that they
24 should be removed, the applicant is interested in preserving the larger
25 tree that would be between the two new buildings. She explained that
26 the trees are affected by Verticillium wilt, which is a fungal disease,
27 adding that it is important to remove these trees in order to protect the
28 remaining trees.

29
30 Commissioner Pogue referred to the Tree Plan, observing that
31 although the original plan had indicated the removal of eight trees,
32 and the updated packet provides for the removal of seven trees, it now
33 appears that only four trees would be removed, and questioned
34 whether the other three trees would be transplanted.

35
36 Ms. Jackson discussed a small plum tree with a diameter of less than
37 six inches, noting that this tree was not included in the original Tree
38 Plan, adding that the other three trees would be transplanted.

39
40 **PUBLIC TESTIMONY:**

41
42 No member of the public testified with regard to this proposal.

43

1 Referring to Commissioner Maks' earlier question, Mr. Osterberg
2 noted that the height of the Performing Arts Center is 60-feet, rather
3 than 56-58 feet, and offered to respond to final questions.

4
5 Chairman Barnard requested clarification with regard to the difference
6 between a tree removal and a tree transplant specifically as it relates
7 to this issue.

8
9 Mr. Osterberg explained that staff considers a removal and a trans-
10 plant differently, observing that while a removal is a complete removal
11 from the site, a transplant is reviewed under established tree protec-
12 tion measures and is also considered to be a tree mitigation measure.

13
14 Emphasizing that the Planning Commission has only recently become
15 involved in the Design Review aspect of these applications,
16 Commissioner Pogue expressed his opinion that staff should provide
17 either a Work Session or further information with regard to what is
18 involved in the review of a Design Review application.

19
20 Mr. Osterberg advised Commissioner Pogue that he appreciates his
21 concerns, adding that he would discuss the possibility of addressing
22 this issue in a future Work Session.

23
24 The public portion of the Public Hearing was closed.

25
26 Commissioners Voytilla, Maks, Winter, and Pogue and Chairman
27 Barnard expressed their support of all three applications as meeting
28 applicable criteria for approval.

29
30 Commissioner Maks **MOVED** and Commissioner Voytilla **SECONDED**
31 a motion to **APPROVE** CU 2003-0009 – Jesuit High School Building
32 Additions Conditional Use, based upon the testimony, reports and
33 exhibits, and new evidence presented during the Public Hearings on
34 the matter, and upon the background facts, findings and conclusions
35 found in the Staff Report dated June 11, 2003, including Conditions of
36 Approval Nos. 1 through 16.

37
38 Motion **CARRIED** by the following vote:

39 **AYES:** Maks, Voytilla, Pogue, Winter, and Barnard.

40 **NAYS:** None

41 **ABSTAIN:** None.

42 **ABSENT:** Bliss and Pogue.

43

Commissioner Maks **MOVED** and Commissioner Voytilla **SECONDED** a motion to **APPROVE** DR 2003-0046 – Jesuit High School Building Additions Design Review, based upon the testimony, reports and exhibits, and new evidence presented during the Public Hearings on the matter, and upon the background facts, findings and conclusions found in the Staff Report dated June 11, 2003, including Conditions of Approval Nos. 1 and 2.

Motion **CARRIED** by the following vote:

AYES: Maks, Voytilla, Pogue, Winter, and Barnard.

NAYS: None

ABSTAIN: None.

ABSENT: Bliss and Pogue.

Commissioner Maks **MOVED** and Commissioner Voytilla **SECONDED** a motion to **APPROVE** TP 2003-0008 – Jesuit High School Building Additions Tree Plan, based upon the testimony, reports and exhibits, and new evidence presented during the Public Hearings on the matter, and upon the background facts, findings and conclusions found in the Staff Report dated June 11, 2003, as amended, including the additional submittal of the Memorandum from Joyce Jackson, dated June 13, 2003, identifying tree removals and replacements, including Conditions of Approval Nos. 1 through 5.

Motion **CARRIED** by the following vote:

AYES: Maks, Voytilla, Pogue, Winter, and Barnard.

NAYS: None

ABSTAIN: None.

ABSENT: Bliss and Pogue.

7:42 p.m. through 8:00 p.m. – recess.

8:01 p.m. – Mr. Osterberg left.

B. TA 2003-0002/CPA 2003-0005 -- DOWNTOWN REGIONAL CENTER MODIFICATIONS

The intent of the proposed Comprehensive Plan and Development Code Text Amendments is implementation of the Redevelopment Plan for the 114th Avenue study area of the Downtown Beaverton Regional Center. This planning process was initiated through a State Transportation and Growth Management (TGM) grant with objectives to increase density, improve access, establish mixed land use patterns, improve pedestrian and bicycle facilities, and establish an alignment for a new north/

1 south street through the area. The study area is within the
2 Regional Center – East District: RC-E, and the proposed
3 Development Code Text Amendment addresses necessary
4 changes to the RC-E zoning district, the Regional Center Site
5 Development requirements, and the Regional Center Supple-
6 mentary Regulations, as well as assigning the Major Pedestrian
7 Route designation to certain streets in the Downtown Beaverton
8 Regional Center. The RC-E zoning district extends beyond the
9 study area, and the proposed Text Amendment application
10 intends to implement redevelopment consistent with the 114th
11 Avenue vision without adding a hardship for existing uses
12 outside of the study area. The Comprehensive Plan Amendment
13 addresses proposed changes to the Transportation Element and
14 the Downtown Regional Center Community Plan.
15

16 Planning Services Manager Hal Bergsma introduced Associate Planner
17 Suzanne Carey, Senior Planner Kevin Snyder, Patrick Sweeney of
18 *Parsons Brinkerhoff*, and Bob Yakas of *Robert Yakas Design*. He dis-
19 cussed the various information and documentation that had been dis-
20 tributed, observing that all of these materials and documents provided
21 by staff would be considered part of the record, including the following:
22

- 23 1. E-mail, dated May 2, 2003, from Mark Whitlow, representing
24 *Fred Meyer Stores*.
 - 25 2. Letter, dated May 27, 2003, from Norm Kaplon, representing
26 *Canyon Road Properties LLC*.
 - 27 3. Letter, dated June 11, 2003, from John Pinkstaff, representing
28 *Carr Auto Group*.
 - 29 4. Letter, dated June 11, 2003, from Wallace Preble, Chairman of
30 *Carr Auto Group*.
 - 31 5. Letter, dated June 17, 2003, from Henry Kane, which includes
32 copies of several other letters from Mr. Kane, dated June 17,
33 2003, June 13, 2003, May 28, 2003, January 9, 2003, November
34 14, 2002, November 5, 2002, December 13, 2002, November 20,
35 2002, November 18, 2002, and March 6, 2002.
 - 36 6. Letter, dated June 16, 2003, from Henry Kane.
 - 37 7. Letter, dated June 16, 2003, from John Childs, representing
38 *N.W. Freedom Corporation*.
 - 39 8. Letter, dated June 18, 2003, from Jerry Green, representing the
40 Beaverton School District.
 - 41 9. Letter, dated June 18, 2003, from Ed Sullivan, representing
42 *Hohnstein Properties*.
- 43

1 Mr. Bergsma briefly reviewed the Supplemental Staff Report,
2 observing that the City of Beaverton has been involved in planning for
3 the downtown area for some time. Noting that the most recent efforts
4 had been initiated around 1990, he pointed out that this involved what
5 he referred to as the vision for the downtown area. He explained that
6 this had included an assessment with regard to the amount of growth
7 that could be accommodated in the downtown area over the next 20
8 years or so, adding that the entire study area had projected an increase
9 of 4,400 new households and 8,000 new jobs by the year 2015. He
10 pointed out that achievement of that type of development would
11 require a widespread application of development forms that have been
12 utilized only in specialized situations in the Portland metropolitan
13 areas and suburban communities, adding that this projection had
14 assumed a major change in the development pattern. He mentioned
15 that office spaces would increase to four to six story buildings, and that
16 residential development would be limited to multi-family formats,
17 rather than single-family housing or duplexes, ranging from three-
18 story garden apartments to ten-story high-rises with structured
19 parking. It was projected that while office-related employment would
20 increase, retail employment levels would be stable. He discussed the
21 1996 downtown growth projections for Transportation Analysis Zones
22 (TAZ's), observing that it was estimated that those that make up what
23 is now the Regional Center East (RCE) district would include 1,583
24 additional households and 2,726 jobs by the year 2015.

25
26 Mr. Bergsma noted that while the 114th Avenue Redevelopment Plan
27 Area was requested to have an increase of only 53 households, it was
28 projected to have an increase of nearly 2,000 jobs. He explained that
29 this analysis had also included an analysis with regard to the impact
30 to the City's infrastructure that would be created by the increase in
31 jobs and households in this area, particularly to the transportation
32 system. He pointed out that in the opinion of staff and the applicant,
33 the existing text of the RC-E district does not adequately recognize
34 previous City commitments to higher-density development in the
35 eastern part of the downtown Regional Center and that the proposed
36 amendments are intended to balance this with the concerns of existing
37 businesses of the area as recognized by the City Council when the
38 district was adopted in 1998.

39
40 Mr. Bergsma clarified that changes to the Comprehensive Plan include
41 changes to the tables referencing proposed transportation
42 improvements and the Transportation Element relating primarily to
43 the 114th Avenue/115th Avenue connection, changes to the
44 Transportation System Plan, Master Plan, Pedestrian Master Plan

1 Map, Bicycle Master Plan Map, the Functional Classification Map, the
2 Street Improvement Master Plan Map, the Community Plan Context
3 Description, and Policies and Actions Statements Related to the
4 Downtown Regional Center. He explained that changes to the
5 Development Code include changes to the Purpose Statement, certain
6 permitted and conditional uses, certain use restrictions, site
7 development standards, and supplementary regulations standards.

8
9 Referring to the Text Amendment Staff Report, specifically the purpose
10 statement, Commissioner Maks requested clarification with regard to
11 why the ¼ mile had been changed to ½ mile.

12
13 Mr. Bergsma noted that in the late 1980's when the eastside Max line
14 became operational, Tri-Met had conducted a study with regard to the
15 distance people were willing to walk to a Max station. He explained
16 that although people were willing to walk approximately ¼ mile to
17 reach a bus stop, they were willing to walk twice as far, approximately
18 ½ mile, to access a Max station, and pointed out that Tri-Met had
19 concluded that walking habits differ in terms of walking to light rail.

20
21 Commissioner Maks questioned whether Tri-Met had conducted a
22 similar study in Beaverton and/or Washington County.

23
24 Mr. Bergsma advised Commissioner Maks that he is not certain if a
25 similar study was done in Beaverton and/or Washington County.

26
27 Referring to page 19 of the Text Amendment Staff Report, Commis-
28 sioner Maks requested clarification with regard to whether the 70%
29 would be required to meet the other standard relating to glazed glass.

30
31 Mr. Bergsma advised Commissioner Maks that he believes that this is
32 the case with regard to buildings that front the street, adding that this
33 concerns only four blocks in the area, rather than the entire zoning
34 district. He pointed out that the 70% provides for greater enclosure
35 along than the street than what would be provided with 50%.

36
37 Commissioner Maks noted that he has issues with the 50% glazing
38 requirement.

39
40 Commissioner Pogue pointed out that some of the action statements
41 with regard to the CPA were more tactical as opposed to strategic.

42
43 Mr. Bergsma advised Commissioner Pogue that the proposed plan
44 could be revised over time, as market conditions change, adding that

1 the plan itself, as referenced within the Comprehensive Plan Text
2 Amendment would not be placed in the plan. He emphasized that staff
3 would like to be able to respond to changing market conditions as they
4 occur and pointed out that this would apply for any planning effort
5 that might occur in the downtown area in the future.

6
7 Commissioner Pogue referred to Action 2 on page 7 of the CPA Staff
8 Report.

9
10 Mr. Bergsma clarified that Action 2 is under Community Plan Goal 2,
11 which created a Regional Center in downtown Beaverton, adding that
12 this is a focus for commerce, high-density housing, and civic activities.
13 He explained that Policy C provides for the location of major activity
14 areas of downtown around public plazas which will compliment the
15 street spaces and provide a location for public gatherings in Action 2,
16 which is proposed to be consistent with the 114th Avenue Area
17 Redevelopment Plan to construct a public plaza at the NE corner of the
18 planned intersection of 114th Avenue and 115th Avenue.

19
20 Commissioner Pogue expressed his opinion that it seemed very
21 specific, rather than the general information provided by the Compre-
22 hensive Plan in most cases. Referring to the proposed Text Amend-
23 ment, specifically page 1, he noted that the Regional Center provides
24 for lower intensity uses which were inappropriate in either Transit
25 Oriented (TO) or Old Town (OT) zoning designations, and questioned
26 where these inappropriate uses would be located in the future.

27
28 Mr. Bergsma explained that these inappropriate uses, such as
29 automobile dealerships, would more appropriately be located in the
30 Corridor areas, which lead into the downtown area. He emphasized
31 that no change is proposed for some of the big boxes uses such as *Fred*
32 *Meyer Stores*, adding that staff understands that some accommodation
33 needs to be made for these uses. He pointed out that low-intensity
34 uses would not achieve the job growth and housing growth that is
35 desired for this area.

36
37 Commissioner Voytilla requested further information and insight with
38 regard to the establishment and function of the Project Advisory
39 Committee (PAC).

40
41 Mr. Bergsma clarified that the notion of PAC had been defined by the
42 scope of work for this project, which was part of an IGA entered into
43 with the State Transportation and Growth Management Program
44 when the \$45,000 grant for this project was received. He explained

1 that this committee basically represented the property owners, interest
2 groups, and various government agencies with an interest in the area,
3 noting that PAC was established to provide assistance to staff and the
4 consultants and had no authority to make any decisions with regard to
5 this project. He emphasized that there had been a great deal of
6 discussion, rather than consensus.

7

8 **PUBLIC TESTIMONY:**

9

10 **ED SULLIVAN**, representing *Hohnstein Properties*, whose main
11 tenant is *Valley Garbage*, adding that both Ron Hohnstein and George
12 Hohnstein are in attendance. Observing that they own approximately
13 one acre of the property that is under consideration at this time, he
14 pointed out that this land is currently utilized to provide service
15 facilities for solid waste collection and recycling. He explained that the
16 land has been utilized in this way since before the property was
17 annexed into the City of Beaverton, adding that although they have
18 been extensively remodeled and refurbished, the current
19 improvements on the property have been in existence for more than 20
20 years. He observed that the property is kept clean and that the tenant
21 has been a good neighbor to the community, emphasizing that the
22 business is centrally located within their service area. He pointed out
23 it would be costly to move, noting that the nearest vacant industrial
24 property is located miles away, which would create increased daily
25 operational costs as well.

26

27 Mr. Sullivan noted that while some individuals have what he referred
28 to as stars in their eyes with regard to the possible sale of their prop-
29 erty to a big developer, others have stable, long-lasting businesses that
30 have contributed a great deal to the community, and can not under-
31 stand why the City of Beaverton might potentially determine that they
32 are no longer desirable and need to relocate. He mentioned that while
33 the City might be in no position to acquire some of these properties,
34 they might be willing to prepare the circumstances through which a
35 large developer could potentially put the squeeze on them by making
36 their property what he referred to as less useable and ripe for the pick-
37 ing of someone with the ability to afford to purchase these properties
38 and take the necessary political steps to realize this plan. He pointed
39 out that while he is aware that this proposal is supposedly a legislative
40 action, he is concerned with the troublesome nature of the proposal.

41

42 Mr. Sullivan expressed his opinion that appropriate notice was not
43 provided, adding that he does not believe that this proposal is
44 consistent with the unamended portions of the City's plan, or those of

1 other affected local government agencies. He pointed out that he has
2 reviewed no analysis of the Statewide Planning Goals, adding that he
3 has only seen the broadest hint of regional goal analysis. He
4 mentioned that he is not aware of any review of inventories of
5 residential, commercial, and industrial lands at present, or what is
6 projected to be needed for the future.

7
8 Mr. Sullivan emphasized that this does not involve a situation like
9 Ronler Acres in Hillsboro, where land was sold to residential property
10 owners without meeting the subdivision conditions creating a situation
11 in which nobody was able to develop, and explained that the City of
12 Hillsboro had acquired lots through condemnation, adding that the
13 City of Beaverton does not intend to take this action. He mentioned
14 that while some might argue that the land is underutilized, he
15 expressed his opinion that this proposal allows others to play a game of
16 Monopoly with our land. He stated that it is our land, our
17 improvements, our houses, and our businesses that are potentially
18 affected, noting that it is our land that is made nonconforming and
19 that the words nonconforming and preexisting have the same result.

20
21 Mr. Sullivan explained that the voters had voted ten years ago to deny
22 the City of Beaverton to undertake land assembly through the urban
23 renewal process, adding that although he believes that this decision
24 should be revisited, this is a decision that is in effect at this time. He
25 pointed out that the distrust of voters in the urban renewal process has
26 not been alleviated by tying up all of this property in what he referred
27 to as a "land use straitjacket", allowing a large developer to acquire all
28 or substantially all of these lands and develop them in accordance with
29 this plan, emphasizing that individual landowners would find this
30 difficult or even impossible to achieve on a parcel by parcel basis.

31
32 Mr. Sullivan discussed the potential devaluation of property induced
33 by this plan, and suggested that if the City intends to market a
34 development proposal to a developer, the City should either fund its
35 implementation, not interfere with current land use patterns, or drop
36 the idea until implementation can be realistically realized. He
37 provided copies of proposed Development Code language he had
38 drafted, stating that the plan should be adopted as the future vision,
39 but that until the City has the funding and the wherewithal to
40 implement that plan, it should not change the development regulations
41 applicable to the land. He explained that the first document he had
42 provided is a redraft of the City's current language with regard to
43 preexisting uses, with his amendments are bolded, adding that the
44 second document is the current language, with several issues

1 underlined. Concluding, he requested reconsideration of this proposal
2 and offered to respond to questions.

3
4 Commissioner Maks pointed out that he is assuming that the property
5 represented by Mr. Sullivan would become nonconforming and
6 requested further information with regard to how the Transportation
7 Plan Rule (TPR) is addressed.

8
9 Emphasizing that the proposal is a significant plan amendment, Mr.
10 Sullivan pointed out that under the TPR, two administrative rules
11 must be addressed, adding that he is not certain that this has been
12 adequately addressed.

13
14 **SCOTT McKENZIE**, representing *Beaverton Auto Upholstery*,
15 expressed his support of Mr. Sullivan's statements and his opposition
16 to the proposal.

17
18 **MARK WHITLOW**, on behalf of *Fred Meyer Stores*, stated that he is
19 disappointed that this issue is back before the Planning Commission,
20 adding that this situation compares to the movie *Groundhog Day*.
21 Observing that the land use system should provide certainty, he point-
22 ed out that the only certainty is the constant need to respond to
23 changes to proposed regulations. He referred to an e-mail he had
24 submitted to Mr. Bergsma, noting that copies have been provided to all
25 members of the Commission, expressing his opinion that the points he
26 had made are very simple to understand. He discussed the purpose
27 statement of each of the sub-areas, adding that this included what he
28 referred to as a hierarchy of orientations, including pedestrian, transit,
29 and automobile, adding that the automobile modes always seem to be
30 left out, and explained that he had crafted language addressing cars
31 and customers with cars. He pointed out that automobiles do not
32 make it impossible to provide a good pedestrian environment or
33 adequate pedestrian connectivity to link to transit routes, emphasizing
34 the importance of creating a careful balance. He discussed his concern
35 with non-conformity with respect to use and/or development, adding
36 that this impedes marketability and is inconsistent with lendability,
37 creating havoc and a bad position for a casualty loss. He mentioned
38 that this situation is unconstitutional and has serious negative
39 economic impact. He expressed his opinion that there is too much
40 emphasis on planning and none on the market place and the practical
41 side of how things work. Concluding, he requested that the issue be
42 continued or the record held open in order to address certain issues.

43

1 Commissioner Maks expressed his appreciation to Mr. Whitlow for his
2 testimony, adding that the TPR issues have been addressed if the DKS
3 carrying capacity study was done on the previous downtown
4 redevelopment plan, which is the basis for this redevelopment plan.
5

6 Mr. Whitlow advised Commissioner Maks that he has no idea what
7 DKS study showed, adding that it is not possible to address a plan
8 amendment through a prior study and that it is necessary to show that
9 presently there is no significant impact to the transportation facility.
10 He emphasized that this would necessitate a current study, based
11 upon current background as well as a projection with regard to new
12 trips generated by the new development patterns, adding that it is not
13 necessary for him to know what was in the prior study.
14

15 Commissioner Maks pointed out that if the most recent transportation
16 systems plan adopted by the City of Beaverton incorporated this
17 density level in those sub-areas and showed no degradation of the
18 roadway, the issue has been addressed.
19

20 Mr. Whitlow expressed his opinion that the issue has not necessarily
21 been addressed in this manner, adding that different factors affect
22 trips and other components, such as primary trips, pass-by trips,
23 internal trips, diverted trips, and trip length, must be considered.
24

25 **ROBIN RUDD**, Property Manager for Robert Zukin and Louis Busch,
26 mentioned that she has concerns with regard to their 20,000 square-
27 foot retail building located on SW 115th Avenue and their 20,000
28 square feet of light industrial property. She expressed her opposition
29 to this proposal, observing that this property has provided the
30 opportunity for many small business opportunities over the years.
31 Concluding, she emphasized that these property owners support and
32 have served this community for a long time and would like to express
33 their opposition to this proposal which would devalue their property.
34

35 **JOHN PINKSTAFF**, representing *Ramis, Corrigan and Bachrach* on
36 behalf of *Carr Subaru*, introduced Gene Bradshaw, co-owner of *Carr*
37 *Subaru*, and submitted 11" x 14" photographs illustrating an overhead
38 aerial of the site. Observing that he would like to provide a brief
39 overview with regard to why *Carr Subaru* should be excluded from this
40 proposal, he discussed the possible proposed uses in Alternative Plan
41 F, adding that this plan did not clearly delineate the actual businesses
42 that could be affected. He explained that while the Carr property is
43 shown on the aerial as Areas C and D, the road would actually displace
44 two buildings that are adjacent to the roadway. He noted that Area C

1 indicates where the dealership and major service center is located,
2 adding that Area D involves the storage area where used cars are
3 stored until they are reconditioned and sold and pointed out that the
4 pink area is the reconditioning building where this occurs.
5

6 Mr. Pinkstaff indicated that he would like to take this opportunity to
7 discuss four issues, as follows:
8

- 9 1. The importance of preserving business with existing jobs during
10 this economic downturn.
- 11 2. This plan is a well-intended idea with significant negative
12 effects on this particular business, as well as other businesses.
- 13 3. Until City has money to fund the entire project, including
14 paying full value for land, they should not impose a plan or
15 change the text of the plan in the Development Code.
- 16 4. If the plan is imposed, *Carr Subaru* respectfully requests to be
17 entirely excluded from the plan, that the designation of its
18 current uses be left alone (Major Automotive, Minor Automotive,
19 and Storage Yards), and that the text amendments not be made
20 on their property.
21

22 Emphasizing that *Carr Subaru* is a major employer, Mr. Pinkstaff
23 described this as a unique situation involving 150 jobs with a \$125
24 million per year operation. He explained that there have been recent
25 improvements and that this involves both the largest Subaru sales and
26 service in the United States, adding that this company has weathered
27 the recession, providing both growth and employment. He pointed out
28 that at this time when the State of Oregon has the worst
29 unemployment rate and the lowest job creation in the country, it is
30 necessary to do everything possible to help existing businesses
31 continue and to retain these businesses with the least detrimental
32 impact, while not restricting uses by existing businesses.
33

34 Referring to Comprehensive Plan Chapter 9.2, Mr. Pinkstaff pointed
35 out that Economic Development Strategic Plan has three concerns, as
36 follows:
37

- 38 1. Promoting the entrepreneurial climate for existing and new
39 businesses.
- 40 2. Ensuring strong public partnership for economic development.
- 41 3. Preserving a high quality of life.
42

43 Mr. Pinkstaff explained that it is necessary to accommodate more
44 highly automobile related uses while still retaining pedestrian

1 linkages. He pointed out that there has been an important stress
2 placed on economic development and supporting a climate that helps
3 existing businesses and jobs. He mentioned that it may become
4 necessary to intensify the utilization of the Carr property, adding that
5 while this could increase jobs even further in the future, the City of
6 Beaverton is proposing a plan that would, in the short term, restrict
7 future development by *Carr Subaru*. He explained that in the long
8 term, this could displace *Carr Subaru* with a different type of
9 commercial mixed use, and questioned why the City would want to
10 replace what it has with a speculation that it could, in the future, raise
11 \$5 million, put in a road, alter the market to bring private developers
12 together, convince land owners to sell, and replace the existing
13 commercial with the proposed future use.

14
15 Mr. Pinkstaff expressed his opinion that *Carr Subaru* currently pro-
16 vides the best possible use of this property, adding that it is highly un-
17 likely that any planned future use would be better or that *Carr Subaru*
18 would be willing to sell their property. He explained that
19 redevelopment is supposed to create a higher value for the owner than
20 the existing use, emphasizing that this would not occur with this plan.
21 He noted that the plan to replace a portion of the storage lot with a
22 commercial and a light rail station would result in strangling the
23 current operation, adding that proposed changes in the text make
24 prohibited and conditional uses out of currently permitted and
25 conditional uses. He explained that the expansion of existing allowed
26 uses, such as Automobile Storage and Major Service, would be subject
27 to subjective restrictions or even outright prohibition. Emphasizing
28 that it is a question of balance, he advised the Commissioners that it is
29 their job and challenge to somehow weigh the city's long-term
30 speculative plan against the short term economic impact. He pointed
31 out that condemnation is only a last resort, adding that there is no
32 guarantee that the City will raise money, that the market will change,
33 or that the owners will be willing to sell.

34
35 Commissioner Maks requested that the Chair advise Mr. Pinkstaff to
36 either summarize his testimony or bring up new points.

37
38 Emphasizing that the proposed use restrictions would decrease
39 property value, Mr. Pinkstaff questioned whether the Commissioners
40 would approve of any plan by the City to do this to their own property,
41 adding that if appropriate money is unavailable, this plan should not
42 be imposed upon the property owners.

43

1 At the request of Commissioner Maks, GENE BRADSHAW, co-owner
2 of *Carr Subaru*, indicated the portion in which the sales and service
3 operations occur. Observing that the location of this operation is gov-
4 erned by Oregon state law and can not be located within ten miles of
5 any Subaru dealership, he explained that the property owners had
6 been negotiating with Robin Rudd and others for the purchase of the
7 Zukin property. He pointed out that this is not a restricted use, but a
8 prohibited use, under the new proposal, emphasizing that this would
9 both eliminate potential growth and could reduce the size of the busi-
10 ness. Concluding, he requested that this proposal be postponed for fur-
11 ther consideration or that *Carr Subaru* be eliminated from the project.

12
13 Referring to Staff Memorandum dated June 11, 2003, Chairman
14 Barnard pointed out that it would be possible to relocate this
15 dealership within this area for what is referred to as "good cause".
16

17 Mr. Bradshaw observed that while it appears that he could obtain
18 permission to move this dealership one mile, it is not likely that a six-
19 acre site on a major highway is available within one mile of the current
20 site. He explained that he had not been provided with a copy of the
21 document referenced by Chairman Barnard, requesting a continuance
22 in order to provide him with an opportunity to respond to this
23 comment by staff.
24

25 Commissioner Winter expressed his appreciation for the great exhibit
26 (aerial photograph) provided by Mr. Pinkstaff and Mr. Bradshaw.
27

28 Commissioner Maks emphasized that while an expansion of the open
29 air storage is prohibited at this time, it would be possible to stack cars
30 in enclosures.
31

32 HENRY KANE stated that contrary to the comments of Mr. Bergsma,
33 he is a regular member of the 114th Avenue Advisory Committee,
34 emphasizing that anyone who shows up is a member of this committee.
35 He pointed out that they had never voted on approval of the
36 Comprehensive Plan Amendments or the 114th Avenue, adding that
37 the only choice they had been given had been which of the alternatives
38 they would prefer for taking millions of dollars worth of property to
39 create an unnecessary street. He commended all those who had
40 provided testimony for pointing out the extensive amount of economic
41 damage this would cause to existing businesses and property rights.
42 He referenced letters he had submitted, dated June 17, 2003, and June
43 18, 2003, expressing his opinion that there had been numerous errors
44 with regard to both procedure and due process. He expressed his

1 opinion that the best option at this time is for the Planning
2 Commissioners to send it back to staff with instructions, and requested
3 a seven-day extension of time to provide the various opponents with an
4 opportunity to respond.
5

6 Observing that he was not provided with copies of certain documents
7 relevant to this proposal, Mr. Kane stated that he needs time to cite
8 the cases that support his position that this involves an Urban
9 Renewal Project, which can not proceed without voter approval.
10 Emphasizing that there is absolutely no written support from anybody
11 with regard to this project, he expressed his opinion that plenty of
12 density exists in this area and that there is no need to destroy the
13 existing businesses, adding that the plan would eliminate a great deal
14 of the parking necessary for the operation of these businesses. He
15 explained that the first concept of "do no harm", noting that it is
16 necessary to consider and determine the impact of this harm. He
17 pointed out that improvements made after a property owner is aware
18 of a change can not be compensated, adding that none of these
19 property owners were aware of this situation and he had to tell them.
20

21 Observing that Mr. Kane is making numerous allegations, Chairman
22 Barnard questioned whether he has any specific testimony relevant to
23 the applicable criteria with regard to this issue.
24

25 Mr. Kane pointed out that he is limited to five minutes, adding that he
26 would be happy to provide proof if this time were extended.
27

28 Chairman Barnard advised Mr. Kane that he had already exceeded his
29 five minutes.
30

31 Mr. Kane stated that he would submit proof that he is a standing
32 member of the 114th Avenue Advisory Committee, adding that he
33 would incorporate by this reference all of the objection testimony
34 provided and to be given, starting with Mr. Ed Sullivan, Dean of the
35 Land Use Bar. He noted that he would give public notice that if the
36 City Council adopts this proposal, he is quite prepared to file suit for
37 deceditory judgment that it is an Urban Renewal Project requiring
38 voter authorization, and pointed out that he has heard no one say that
39 this is a great idea and so what if a lot of people are hurt.
40

41 Commissioner Pogue mentioned that he has not heard any comment
42 stating so what if anybody gets hurt, and advised Mr. Kane that he
43 does not require a response.
44

1 **REBUTTAL:**

2
3 Mr. Bergsma pointed out that there has been a great deal of negative
4 testimony, adding that Mr. Sullivan has suggested some changes to the
5 proposed provision related to pre-existing uses. Observing that these
6 changes may have merit, he explained that while staff has not yet had
7 time to review these suggestions, they could be considered. He
8 explained that Mr. Whitlow has indicated that there should be no
9 changes beyond what was done in 1999 and suggested delay in the
10 changes until the work of Metro on Centers is completed, adding that
11 this is a possibility. He noted that while Ms. Rudd opposes the
12 proposed road connection, which has been planned since 1998, the only
13 way to make this connection is through her client's property. He
14 emphasized that staff has made every effort to avoid affecting the Carr
15 property as much as possible, noting that there has been no proposed
16 change to the minimum Floor Area Ratio (FAR) standard or any other
17 changes in Code standards that would affect this business. On
18 question, he advised Commissioner Maks that Metro has not
19 guaranteed that changes to the centers would work out.

20
21 Commissioner Pogue requested clarification with regard to the number
22 of businesses that would be affected by this proposal, specifically those
23 conditional uses that would become prohibited uses.

24
25 Mr. Bergsma stated that this would generally involve Vehicle Storage,
26 observing that this current conditional use would become a prohibited
27 use, adding that this would affect the Carr lot on the west side of SW
28 114th Avenue south of the railroad tracks as well as the Hohnstein
29 property (*Valley Garbage*). He pointed out that Minor Automotive,
30 which is now a permitted use, would become a conditional use.

31
32 9:39 through 9:44 p.m. – recess.

33
34 The public portion of the Public Hearing was closed.

35
36 Commissioner Maks stated that he would entertain a motion for a con-
37 tinuance because while he believes in the land use system, the Urban
38 Growth Boundary (UGB), and some expansion of the UGB, he also
39 believes in centers (both Regional Centers and Town Centers) and the
40 center concept on a limited basis. He pointed out that he is also a busi-
41 nessman, emphasizing that these centers need to be driven by the mar-
42 ket and a mixture of uses, adding that they must be complimentary,
43 work off of and feed one another, in order to create what he referred to

1 as a viable center. Observing that it is good to have a vision, he point-
2 ed out that he is in favor of a continuance for the following reasons:

- 3
- 4 1. To make certain that the Measure 56 requirements with regard
5 to notification have been met.
 - 6 2. To make certain that the State planning goals are addressed.
 - 7 3. To make certain that the TPR has been addressed properly.
 - 8 4. To provide additional time for staff to review issues with regard
9 to uses, both conditional uses and non-conforming uses.
- 10

11 Commissioner Maks expressed his opinion that Mr. Whitlow is right
12 with regard to the purpose statement, adding that he would like the
13 issues mentioned to be addressed, and suggested a continuance, with
14 the hearing to be reopened for additional comments on a limited basis.

15

16 Commissioner Voytilla agreed with every point brought up by
17 Commissioner Maks, and expressed his appreciation to those who
18 participated. Observing that he is not ready to proceed at this time, he
19 noted that he would like to make certain that sufficient time is
20 provided to accommodate the three or four requests to address
21 materials provided tonight. He emphasized that he would like to
22 avoid what he referred to as a last minute paper dump.

23

24 Expressing his agreement with Commissioner Maks, Commissioner
25 Pogue stated that he is in support of the proposed continuance.

26

27 Commissioner Winter echoed his fellow Commissioner's thoughts,
28 adding that there is a great deal of gray area to clarify, observing that
29 it appears that 63 different people have expressed concern with this
30 particular plot of land.

31

32 Mr. Bergsma advised Commissioner Winter that there are many
33 smaller property owners with an interest in this area.

34

35 Observing that there has been a great deal of negative testimony with
36 regard to this proposal, Commissioner Winter questioned whether
37 there is any support from the public.

38

39 Mr. Bergsma agreed that while there is a great deal of ambivalence
40 with regard to this proposal, there is at least some limited support.

41

42 Chairman Barnard stated that he would support a continuance, adding
43 that staff should consider an appropriate date. He pointed out that he
44 truly supports a vision, adding that he is concerned with traffic

1 complaints, transportation issues, alignment of roads, and improve-
2 ments to north/south traffic, adding that he anticipates some potential
3 for improvement. Expressing his opinion that the purpose statement
4 has some merit and should conform to the direction we want to go in,
5 he suggested that the Public Hearing be reopened at the continuance
6 in order to receive public testimony limited to new issues raised.

7
8 Mr. Bergsma suggested that the Public Hearing be continued to July 9,
9 2003, he pointed out that no other issues are scheduled on that date.

10
11 Observing that this date is not very far in the future, Commissioner
12 Voytilla questioned whether this would provide adequate time to
13 address all issues.

14
15 Mr. Bergsma assured Commissioner Voytilla that this would provide
16 sufficient time for staff to resolve the issues that have been raised.

17
18 Commissioner Maks **MOVED** and Commissioner Winter **SECONDED**
19 a motion to **CONTINUE** TA 2003-0002 – Downtown Regional Center
20 Modifications, to a date certain of July 9, 2003.

21
22 Motion **CARRIED**, unanimously.

23
24 Commissioner Maks **MOVED** and Commissioner Winter **SECONDED**
25 a motion to **CONTINUE** CPA 2003-0005 – Downtown Regional Center
26 Modifications, to a date certain of July 9, 2003.

27
28 Motion **CARRIED**, unanimously.

29
30 Commissioner Maks requested that Chairman Barnard determine
31 whether Commissioners Bliss and Johansen would be available for the
32 continuance on July 9, 2003 and make certain that they get copies of
33 the tape and any additional documents.

34
35 Commissioner Maks advised Chairman Barnard that he would not be
36 available for the meeting scheduled for June 25, 2003.

37
38 **MISCELLANEOUS BUSINESS:**

39
40 The meeting adjourned at 10:00 p.m.